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Filing date: **07/30/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177939
Party	Defendant TENNIS INDUSTRY ASSOCIATION
Correspondence Address	NATHAN J. BREEN HOWE & HUTTON, LTD. 20 N. WACKER DR., SUITE 4200 CHICAGO, IL 60606 njb@howehutton.com
Submission	Answer
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Date	07/30/2007
Attachments	_0730143220_001.pdf (6 pages)(181229 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MIR RAHIM)	
)	Mark: CARDIO TENNIS
Opposer,)	HEART PUMPING FITNESS
)	(& Design)
)	
v.)	Serial No. 78/646,142
)	
TENNIS INDUSTRY ASSOCIATION)	Filed: June 8, 2005
)	
Applicant.)	Opposition No. 91177939
BOX TTAB		
NO FEE		

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition issued by the Board on June 20, 2007, Tennis Industry Association (“Applicant”) hereby responds to Mir Rahim (“Opposer”) as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition and therefore denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and therefore denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition and therefore denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition and therefore denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition and therefore denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition and therefore denies same.

7. In response to Paragraph 7 of the Notice of Opposition, Applicant admits that the United States Tennis Association (“USTA”) applied for registration of the mark “Cardio Tennis” in August 2003. Applicant is without knowledge or information sufficient to form a belief as to the USTA’s knowledge of Opposer’s prior rights, if any, to the phrase “Cardio Tennis” and therefore denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition and therefore denies same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice of Opposition and therefore denies same.

10. In response to Paragraph 10 of the Notice of Opposition, Applicant admits that Jim Baugh was President of Applicant until December 2006. Applicant denies the remaining allegations contained in Paragraph 10.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition and therefore denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Notice of Opposition and therefore denies same.

13. In response to Paragraph 13 of the Notice of Opposition, Applicant admits that the application which is the subject of this Opposition was filed on June 8, 2005. Applicant denies the remaining allegations contained in Paragraph 13.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Notice of Opposition and therefore denies same.

15. In response to Paragraph 13 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to USTA's reasons for canceling its "Cardio Tennis" registration. Applicant denies that the USTA admitted it was not the prior user of "Cardio Tennis" or any mark derived from "Cardio Tennis" by canceling its "Cardio Tennis" application.

16. In response to Paragraph 13 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to USTA's reasons for canceling its "Cardio Tennis" registration. Applicant admits that the USTA assigned Applicant all right and interest to the mark which is the subject of this opposition and that the assignment was filed with the United States Patent and Trademark Office on January 31.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Notice of Opposition and therefore denies same.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Notice of Opposition and therefore denies same.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Notice of Opposition and therefore denies same.

20. In response to Paragraph 20 of the Notice of Opposition, Applicant is not aware of any continuous use of the phrase “Cardio Tennis” by Opposer and denies deriving the mark which is the subject of this Opposition from anything known to be owned by Opposer or his predecessor in interest. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 20 of the Notice of Opposition and therefore denies same.

21. Applicant denies the allegations contained in Paragraph 21 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts that:

FIRST AFFIRMATIVE DEFENSE

Applicant’s use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer’s goods or services, nor will such use be thought by the public to be a use by Opposer or with Opposer’s authorization or approval.

SECOND AFFIRMATIVE DEFENSE

Applicant's mark, when used on Applicant's services, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin sponsorship, or approval of Applicant's services by Opposer.

RELIEF REQUESTED

WHEREFORE, Applicant respectfully requests that this opposition proceeding be dismissed with prejudice.

Respectfully submitted,

HOWE & HUTTON, LTD.

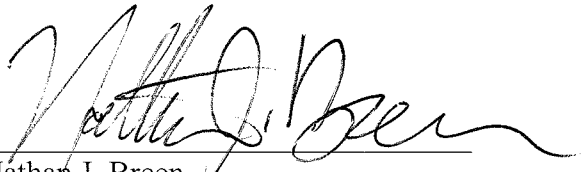
By: 

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served upon Opposer's attorney of record, Michael T. Sawyer, The Law Offices Of Michael T. Sawyer, 150 N. Michigan Avenue, Suite 2700 Chicago, IL 60601 by depositing the same at the U.S. Mail chute at 20 North Wacker Drive, Chicago, Illinois, 60606, first-class, postage prepaid, on July 30, 2007 before the hour of 5:00 p.m..


Nathan J. Breen